

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6068

BILL NUMBER: SB 20

NOTE PREPARED: Nov 10, 2008

BILL AMENDED:

SUBJECT: Dispensing Drugs by Pharmacies.

FIRST AUTHOR: Sen. Errington

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill imposes a duty on a pharmacy to fill a contraceptive prescription drug or device in stock in a timely manner. The bill requires a pharmacy to take specified steps if the pharmacy does not have: (1) a contraceptive prescription drug or device; or (2) an over-the-counter contraceptive; in stock. It also requires a pharmacy to ensure that the pharmacy's customers are not intimidated, threatened, or harassed in the delivery of services.

The bill allows a person to file a complaint with the Board of Pharmacy or commence a civil action for a violation by a pharmacy. It requires the Board of Pharmacy to investigate a complaint and determine whether a violation has occurred.

The bill allows the Attorney General (AG) to file a civil action for a violation by a pharmacy, and sets forth the maximum compensatory damages and civil penalties that may be awarded by the court.

Effective Date: July 1, 2009.

Explanation of State Expenditures: The bill allows a pharmacy customer to file a complaint with the Board of Pharmacy if the person believes that a contraceptive drug or device in stock was not filled in a timely manner consistent with the pharmacy's normal time frame for filling a prescription, or the pharmacy did not offer to obtain the product in the normal manner of ordering expedited items, or did not locate the closest pharmacy or a pharmacy of the customer's choice that has the product in stock. The Board is required to investigate complaints filed within 30 business days. The bill requires an administrative hearing. If the Board determines that a violation has occurred, it may impose a fine of at least \$25, limit a pharmacy's permit, or revoke a pharmacy permit. The fiscal impact of the bill will depend on the number of complaints that are

filed with the Board of Pharmacy.

The Attorney General's office may also bring a civil action on behalf of an Indiana resident if the office has reasonable cause to believe that a person has been injured by a pharmacy's violation of the provisions of the bill. The bill provides that relief awarded by a court can include compensatory damages for the injured party and civil penalties that may not exceed \$5,000 for a first violation and no more than \$10,000 for a second violation. The fiscal impact will depend on the number of civil actions the AG might pursue.

Explanation of State Revenues: Fines assessed by the Board of Pharmacy and civil penalties that may be awarded due to civil actions brought by the Attorney General are deposited in the state General Fund.

The bill would allow a pharmacy customer to file a civil action seeking damages, court costs, reasonable attorney's fees, and expert witnesses fees. If a court finds that a violation occurred, the bill allows the plaintiff to choose to collect statutory damages of \$5,000 per violation instead of actual compensatory damages. There are no data available to indicate if additional civil actions would occur as the result of a pharmacy violating the provisions of this bill.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Indiana Professional Licensing Agency, Board of Pharmacy; Attorney General.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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